IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 633 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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HIRALAL TULSIRAM - Applicant(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
THROUGH JAIL for Applicant(s) : 1,
MR KT DAVE, ADDITIONAL PUBLIC PROSECUTOR for Respondent(s) : 1,
None for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 02/05/2006

ORAL JUDGMENT

1. Rule. Mr.K.T.Dave, learned Additional Public Prosecutor waives service of rule on behalf of the respondents.

2. Present is the application received through jail, challenging the jail punishment by the Superintendent, Ahmedabad Central Jail.

3. The facts of the case are that the present petitioner – convict is convicted for the offence under Section 302 of the Indian Penal Code, Section 135 of the Bombay Police Act and under NDPS Act by the Additional Sessions Court, Ahmedabad (City) by judgment and order dated 26.11.1998 in Sessions Case No.224 of 1997. The petitioner – convict was granted furlough leave with effect from 01.12.2000 for 14 days. He was to report back on 16.12.2000. He did not report and absconded. It was only on 12.05.2004 that he was intercepted by the police and lodged in jail again.

The case of the petitioner – convict is that during furlough leave, he had gone to Rajasthan to see his maternal uncle. His maternal uncle met with an accident and his one leg was imputed, the petitioner – convict stayed back to attend his maternal uncle.

4. The defense is not found to be acceptable. The authorities after considering the defense and the fact that he was intercepted by the Gangapur City

Railway Police on 17.04.2001 for offence punishable under NDPS Act and Sections 328 and 379 of the Indian Penal Code, imposed the jail punishment.

No case is made out. Hence, this application is rejected. Rule is discharged.

(RAVI R.TRIPATHI, J.)

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